

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

Robert Shatney,

Plaintiff,

v.

United States of America

Defendant.

Civil No. 07-208-SM

ORDER

1. On July 26, 2007, the United States was served with Robert Shatney's complaint, and Judge Steven J. McAuliffe's order dated July 10, 2007, ordering the United States to respond to Shatney's collateral due process allegation that he did not receive Constitutionally adequate notice of the U.S. Drug Enforcement Administration's ("DEA") administrative forfeiture of a 1994 Harley Davidson Heritage Soft Tail motorcycle VIN # 1HD1BNL12R040562 .

2. The United States has represented to the Court, by Declaration of John Hieronymus, Forfeiture Counsel for DEA, that the motorcycle was seized by the Derry Police Department, and that DEA adopted the forfeiture on September 9, 2005.

3. According to Hieronymus's Declaration, DEA sent notice of the forfeiture proceeding to Robert Shatney at his last known residential address of 5 Tyler Drive, Derry, NH, 03038. The notice was returned to DEA, marked "unclaimed." After issuing notice by publication in The Wall Street Journal for three consecutive weeks, DEA administratively forfeited the funds on December 14, 2005.

4. The Court will treat Shatney's due process complaint as a motion, pursuant to 18 U.S.C. § 983(e), to set aside DEA's nonjudicial forfeiture of the 1994 Harley Davidson Heritage Soft Tail motorcycle VIN # 1HD1BNL12R040562 in DEA Case No. CG-05-0064, Asset Identification No. 05-DEA-457341. Based on the confession of error by the United States, pursuant to 18 U.S.C. § 983(e)(1)(B), the Court will grant Shatney's motion without prejudice to the United States, and its right to commence a subsequent administrative proceeding against the 1994 Harley Davidson Heritage Soft Tail motorcycle VIN # 1HD1BNL12R040562 within 60 days of the entry of this order.

Dated: September 20, 2007

/s/ Steven J. McAuliffe

Steven J. McAuliffe
Chief District Judge

cc: Robert Shatney, pro se
Robert Rabuck, Esq.